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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

J. BENITO GARCIA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 06-70097

Agency No. A70-943-864

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 5, 2006^{**}

Before: CANBY, T.G. NELSON and KLEINFELD, Circuit Judges.

We have reviewed petitioner's response to the order to show cause and motion for summary disposition. Respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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as not to require further argument because the motion to reopen was filed more than 90 days after the date of the order of removal by the Board of Immigration Appeals. 8 C.F.R. § 1003.2(c)(2); *United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard); *see also*, *Velezmoro v. Ashcroft*, 362 F.3d 1231 (9th Cir. 2004), *vacated by*, 384 F.3d 1091 (9th Cir. 2004) (order), *and reversed by*, 2005 WL 91619 (9th Cir. Jan. 18, 2005) (en banc). Accordingly, this petition for review is denied.

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.